



Board for Judicial Administration (BJA) and Court Management Council (CMC) Meeting

Friday, December 12, 2014 (9 a.m. – Noon)

AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

MEETING MINUTES

BJA Members Present:

Judge Kevin Ringus, Member Chair
Judge Veronica Alicea-Galvan
Judge Thomas Bjorgen
Judge Bryan Chushcoff
Judge Harold Clarke III
Ms. Callie Dietz
Judge Janet Garrow
Mr. Anthony Gipe
Judge Kevin Korsmo (by phone)
Judge John Meyer
Judge Sean O'Donnell
Justice Susan Owens
Judge Jeffrey Ramsdell
Judge Ann Schindler
Judge Laurel Siddoway (by phone)
Judge David Steiner

CMC Members Present:

Mr. Jeff Amram (by phone)
Ms. Linda Baker
Ms. Ruth Gordon
Ms. Suzanne Elsner
Ms. Sonya Kraski (by phone)
Mr. Frank Maiocco
Mr. Pete Peterson
Ms. Renee Townsley (by phone)

Guests Present:

Judge Sharon Armstrong (ret.)
Ms. Ishbel Dickens
Judge James Lawler
Judge Terry Lukens (ret.)
Mr. Robert Mitchell
Ms. Susie Parker
Judge John Ruhl
Judge Michael Trickey
Justice Charles Wiggins

AOC Staff Present:

Ms. Beth Flynn
Mr. Steve Henley
Ms. Shannon Hinchcliffe
Mr. Dirk Marler
Ms. Mellani McAleenan
Mr. Monto Morton

Judge Ringus called the meeting to order.

Court Manager of the Year Award

Ms. Dietz and Ms. Kraski co-chair the Court Management Council (CMC). The CMC was established in 1987 as a statewide forum for enhancing the administration of the courts. Three of the CMC's responsibilities are: 1) taking positions on legislation affecting the overall administration of the courts, 2) providing direction to the Administrative Office of the Courts on matters affecting the administration of the courts, and 3) fostering communication among the various entities providing court administration.

The purpose of the Court Manager of the Year Award is to honor an outstanding court manager who exemplifies the leadership and ideals of their chosen profession.

The CMC had outstanding nominees this year and it was very difficult to choose between them. The Top vote getters were separated by one vote. The recipient's name will be added to a perpetual plaque and they also receive a gift.

The nominees were:

- Gayle Engkraf, Court Administrator, Cowlitz County Superior Court
- LaTricia Kinlow, Court Administrator, Tukwila Municipal Court
- Ron Miles, Court Administrator, Spokane County Superior Court
- Susie Parker, Court Administrator, Lewis County Superior Court
- Bob Terwilliger, Court Administrator, Snohomish County Superior Court
- Yolande Williams, Court Administrator, Seattle Municipal Court

The 2014 Court Manager of the Year is Ms. Parker who was nominated by Pamela Hartman Beyer, Court Administrator, Grays Harbor County Superior Court. In her nomination Ms. Hartman stated that Ms. Parker is a mentor and great resource. She also stated that Ms. Parker has made significant contributions in the Superior Court Case Management System (SC-CMS) project. As the Court Administrator for Lewis County, her county was selected as a pilot site for the SC-CMS project. She has been able to unify her court in making major decisions regarding the document management system (DMS) that are leading the way for other counties to have the same discussions. Ms. Parker is always accessible and willing to answer and assist others in learning about the system and is dedicated to seeing the SC-CMS Project through to completion by spending numerous hours at trainings, CUWG meetings, etc. As a smaller court the time and energy Ms. Parker has spent on this project has been significant but she never complains. She continues to go above and beyond for her court and to help all courts in the state of Washington.

Judge Lawler's letter of support indicated that Ms. Parker has a wealth of knowledge and experience that makes her highly effective in the performance of her job as Superior Court Administrator. She knows and has a good relationship with the decision makers in most of the county departments. During budget time, she is well informed and knowledgeable about the process which generally makes their negotiations with the County Commission go smoothly. In addition to her normal job duties as Court Administrator, she has taken an active role in dealing with the provision of mental health services to their regular court users. She has been instrumental in working with their local mental health authority to connect people with needed services. Several clients even contact her directly to report both their successes and failures. Finally, Susie has been highly involved with the implementation of the new Odyssey Case Management System. As the lone pilot court in the state for this project, her common sense approach to problem-solving together with her technical computer skills have been invaluable in overcoming roadblocks along the way.

Ms. Gordon stated that all of the Washington superior courts are in Ms. Parker's debt because she is on the ground implementing SC-CMS which will be used by many courts.

Mr. Maiocco added that the SC-CMS Project is a huge undertaking and Washington courts truly are indebted for Lewis County Superior Court being a pilot court.

Ms. Parker appreciates the award and is honored. The team she works with is amazing. There have been some issues along the way with the SC-CMS Project but the Administrative Office of the Courts (AOC) and Tyler Technologies have come together and addressed every issue.

Supreme Court Budget Report

This agenda item will be set over to the next BJA meeting.

GR 31.1 Forms

Mr. Bell presented three new GR 31.1 forms for the BJA's approval. The first form is a memorandum of understanding addressing possible separation of powers issues between the executive and judicial branches regarding court records. The next form provides guidance on chambers records which addresses how judicial branch employees should handle chambers records. The last form is how to deal with records that are exempted or prohibited from disclosure. These forms will be on the next BJA meeting agenda for action. Feel free to call or e-mail Mr. Bell if there are questions about any of the forms or the rule.

The GR 31.1 Core Work Group's work is now complete and the next step will be training.

Suggested Rule GR 35 Judicial Performance Evaluations

Judge Trickey stated that GR 35 originated with the American Judicature Society (AJS) which is now dissolved. AJS's goal was to improve the administration of justice and increase the public's understanding of the justice system. Washington's chapter was created in 1989 and worked on judicial retention issues. The Washington AJS has done a lot of good work.

Judge Ruhl explained that in October 2014 the Supreme Court Rules Committee referred GR 35 to the BJA for input. Proposed GR 35 is included in the meeting materials. A list of states that have a judicial evaluation system was distributed during the meeting. Proposed GR 35 is well-thought-out and something that is used in King County. King County uses the same evaluation company that the state of Alaska uses. It works well where implemented.

Judge Ruhl said that GR 35 is an extraordinary opportunity for the courts to take the lead and implement a tool to improve the judiciary. It will improve judicial independence, provide information for voters to use in elections, and improve public trust in the judiciary.

Judge Lukens and Mr. Mitchell reviewed the eight sections in the proposed rule. The proposed rule begins with the scope and purpose. Both are fairly straightforward and state that the rule will establish a procedure to evaluate judicial officers and candidates as well as provide reliable information to assist Washington voters. The second section establishes a Judicial Performance Committee which is non-partisan, diverse, and not dominated by lawyers—the majority are non-attorneys. The third section contains criteria for evaluation. The fourth section addresses sources of information. All of the people evaluating the judges and candidates are asked if they have personal, direct information regarding the judge. The fifth section contains the evaluation procedure. The sixth provides information regarding the self-improvement process which includes collaborating with spring conferences to present anonymous results. The seventh section covers the evaluation of non-judge candidates for judicial office which will solve the problem of having non-judge candidates not evaluated and judges being evaluated. The eighth section covers confidentiality.

Judge Armstrong served on the King County Superior Court bench for 27 years. Every judge really strives for excellence but to do that they need honest feedback. It will be anonymous so they will get honest feedback. In King County judges are subject to a bar poll. She thought the information was critically important to become the judge she wanted to be. This rule will allow only those people who have appeared before a judge to evaluate them. Judicial candidates will be evaluated the same way judges are evaluated. This will allow the judges to become what they strive for and what the public wants.

Justice Wiggins stated there is a tidal wave of money washing over judicial elections. Washington has not had that happen since 2006 but this is an ever-increasing problem. Television advertisements in judicial elections hit an all-time high in the 2011-12 cycle which was 50% over the previous record. 2013-14 also had an increase in television advertisements and independent spending. There is an increased involvement in judicial elections by national groups. The important aspect is that the judicial performance evaluation program is worth doing.

BJA members had the following questions regarding the proposed rule:

- Q. Do you have a methodology for insuring there is no bias in the evaluations?
 - A. If the respondents are biased, they are not supposed to respond to the evaluation. It is set up to have a sufficient number of evaluators so no one person overwhelms the evaluation.
- Q. Do you anticipate that the Judicial Performance Committees will be in each county or statewide?
 - A. It is a statewide Judicial Performance Committee.
- Q. Who is going to pay for this and how much is it going to cost?
 - A. King County's experience is in the low five figures. They need to canvass other states to find out how other states are paying for the evaluations and how much it costs.
- Q. How about the district and municipal court judges?
 - A. The rule has a phase-in over a number of years. All judges will be evaluated.
- Q. How does the proposed rule align with GR 31.1?
 - A. It is possible GR 31.1 will need to be amended to address the confidentiality of the evaluations and surveys.
- Q. How are judicial candidates rated?
 - A. There are a broad number of measures without weighting. Their evaluations deal with more of the temperament of the candidate.
- Q. Does this apply to the gubernatorial appointments?
 - A. It would not apply to the appointment but would apply when the judge runs for election.

Standing Committee Reports

Budget and Funding Committee: Judge Schindler reported that the Budget and Funding Committee is planning to meet and will continue to work on budget criteria. It is going to be a long process.

Court Education Committee: Judge Meyer submitted a written report which is behind Tab 4 in the meeting materials. He will endeavor to provide a one-page report for each BJA meeting. At this point in time, the Court Education Committee is paddling upstream to get their arms around the work of the Board for Court Education (BCE) by June when the BCE sunsets and the Court Education Committee takes over. In the past six to seven years funding for judicial education in Washington has dropped significantly. Everybody has funding issues but if Washington wants to continue to maintain its reputation of being one of the finer judicial education groups in the country, funding needs to be increased or money saving alternatives need to be developed such as not providing housing during conferences.

Legislative Committee: Judge O'Donnell stated that there is a disparity from county to county in our state for legal financial obligations (LFOs). The average LFO is \$600 statewide. Contrast that with Whitman County where the average is \$7,000. Different results are found based on which county the case is in. It might be useful to have an educational component for Legislative Committee information. He would like to request that the Court Education Committee offer an instructional/informational piece for new judges at Judicial College to illustrate how LFOs impact people of limited means. Representative Roger Goodman will likely have a bill that addresses the 12% interest on LFO fees and fines.

Judge O'Donnell would like to get the BJA's approval for funding for the SC-CMS and CLJ-CMS projects.

Judge Alicea-Galvan moved to support issue to an action item. The motion was not seconded.

Ms. Hinchcliffe requested that this decision be delayed until more information can be provided to the BJA so they understand what they are approving.

Judge Alicea-Galvan moved and Justice Owens seconded to support maintaining the JIS account and continued funding for the SC-CMS and CLJ-CMS projects and all costs that are involved in those systems. There was a friendly amendment to include funding for data exchanges but Judge Alicea-Galvan did not accept the amendment. The motion carried with Judge Chushcoff and Judge Ramsdell opposed.

Representative Richard DeBolt has a bill to make judicial elections partisan. Ms. Wendy Ferrell has prepared a written statement for the media. Chief Justice Barbara Madsen asked that the BJA support a statement regarding the bill and Ms. McAleenan read it to the BJA. By consensus the BJA said they support the statement.

Policy and Planning Committee: Judge Garrow reported that the Policy and Planning Committee held their first meeting last month. They reviewed background information for the

committee members. They will meet by phone next week about possible ideas for campaign-type projects for the next year or so.

Salary Commission Report and Meeting Schedule

Ms. McAleenan stated that every two years the Washington State Salary Commission convenes. They begin their work with an instructional meeting in November and they have a meeting in January in Olympia. They then make a decision on whether they will recommend salary increases and will have public meetings for comments on their recommendation. Those meetings are held through May around the state.

For the January meeting, Chief Justice Madsen, Judge Korsmo, Judge Ramsdell and Judge Alicea-Galvan will speak to the Commission members regarding what it is like to be a judge.

The BJA's past salary strategy has worked well. Judges were one of the few groups to receive a salary increase during the last cycle.

The following suggestions were made regarding the materials that are sent to the Salary Commission. Ms. McAleenan asked that judges talk about the issues at the Salary Commission meetings rather than send revised information to the Salary Commission.

- The materials (on page 62) indicate there is a decrease in the number of superior court cases. While the case filings might have decreased that may be misleading because the cases are more complicated. It was requested that this be addressed by submitting an update to the superior court information.
- It was also suggested that numbers be attached to some of the information in the report. For the security information, for example, judges in King County now have to pay for secure parking and for home security which is about \$400 each month.
- There are more complexities with DUIs and marijuana trials are now longer. When the Legislature changes laws they do impact courts directly and how they are dealt with. With some of the policies being implemented, some of the district and municipal courts are having to deal with new issues.
- There are also issues with the number of officers on the streets. When open police department positions are filled, it will make a difference in the number of case filings.
- There is a huge increase in pro se litigation which creates more work for those cases.
- Judges are also receiving a lot more warrant calls in the middle of the night.
- Clerks are recording on the docket the number of hours judges are in trial. That information could be pulled and the BJA could provide concrete numbers for the narrative in the report.
- It was requested that this report be reviewed by the entire BJA prior to sending it to the Salary Commission in the future. Ms. Hinchcliffe explained that there is a time crunch of constructing the data and the deadline for submitting it. If this is scheduled for the August or September BJA meeting, that should provide sufficient time to discuss the narrative. This should be put on the September agenda and the BJA members will need to recognize that they will have to make decisions at that time.

Ms. McAleenan stated that the BJA's talking points will be that the BJA agrees with the 5% salary differential between court levels and with the Salary Commission's recommendation to

use federal salaries as the benchmark. It will also be stated that the BJA understands that a huge increase is not going to happen but well-paced incremental increases will help Washington judges keep pace with federal judicial salaries.

Administrative Manager's Report

Ms. Dietz reported that Ms. Nan Sullins, the manager of the AOC Office of Legal Services and Appellate Court Support, is retiring at the end of December and leaving a large vacancy. The wonderful news is that Ms. Hinchcliffe will take Ms. Sullins' place. She has all the skills to do an excellent job. The BJA is losing a wonderful BJA administrative manager. In the interim while looking for a replacement, Mr. David Elliott will step in and take on the work of the BJA in addition to his other duties.

Ms. Hinchcliffe is torn about leaving the BJA and she will miss everyone. She will try to leave quite a bit of transition detail for her successor.

The Committee Unification Report has been published online.

Ms. Hinchcliffe included a GR 35 timeline outline in the meeting materials and suggests that the BJA continue the GR 35 discussion to the January meeting. Next steps are on pages 100-101 of the meeting materials and the BJA has a few months to come out with a product—whether it is a redline rule or letter. The BJA needs to decide how to solicit input to GR 35. Should the BJA do it all or have the BJA doing some pieces? The BJA would then come back in May with that information to give to the Supreme Court before October.

November 21, 2014 Meeting Minutes

It was moved by Justice Owens and seconded by Judge Ramsdell to approve the November 21, 2014 BJA meeting minutes. The motion carried.

BJA Committee Recommendations

Judge Schindler stated that there is a joint recommendation from Judge Ramsdell, on behalf of the Trial Court Advocacy Board, and Judge Schindler, on behalf of the BJA Budget and Funding Committee, to eliminate the Trial Court Operations Funding Committee (TCOFC).

It was moved by Judge O'Donnell and seconded by Judge Meyer to eliminate the Trial Court Operations Funding Committee. The motion carried.

Recap of Motions from the December 12, 2014 meeting

Motion Summary	Status
Allow action on supporting funding of the SC-CMS and CLJ-CMS projects	No second
Support maintaining the JIS account and continued funding for the SC-CMS and CLJ-CMS projects and all costs that are involved in those systems	Passed with Judge Chushcoff and Judge Ramsdell opposed
Approve the November 21, 2014 BJA meeting minutes	Passed
Eliminate the Trial Court Operations Funding Committee	Passed

Action Items from the December 12, 2014 meeting

Action Item	Status
<u>November 21, 2014 BJA Meeting Minutes</u> <ul style="list-style-type: none"> Post the minutes online Send minutes to the Supreme Court for inclusion in the En Banc meeting materials 	<p>Done</p> <p>Done</p>
<u>Supreme Court Budget Report</u> <ul style="list-style-type: none"> Add to January BJA meeting agenda 	<p>Done</p>
<u>GR 31.1 Forms</u> <ul style="list-style-type: none"> Add as action item to January BJA meeting agenda 	<p>Done</p>
<u>GR 35</u> <ul style="list-style-type: none"> Figure out the fiscal impact Review GR 31.1 for conflicts with GR 35 Decide how to solicit input for GR 35 during the February BJA meeting—should the BJA do it all or just some pieces of it? Add to May agenda so the BJA can give input to the Supreme Court before October 	
<u>BJA 2015 Legislative Agenda</u> <ul style="list-style-type: none"> Notify the JISC that the BJA supports the funding of the CMS projects Add JISC presentation to January BJA meeting agenda so the BJA will have the information they need to vote on backing funding for CMS data exchanges if they choose to vote on that 	<p>Done</p>